IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

MFA.No. 1320 of 2001()

OPMV.60/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE

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APPELLANT/3RD RESPONDENT:

M/S.NATIONAL INSURANCE CO. LTD., DIVISIONAL OFFICE,
MANUAL SONS BUILDING, G.H.ROAD, KOZHIKODE.

BY ADV. SRI.JOE KALLIATH

RESPONDENTS/PETITIONER & 1 AND 2 RESPONDENTS:

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1. RATNAKUMAR, S/O.BALAN, AGED 32 YEARS, RESIDING AT PAKIDERI HOUSE, PERUMANA AMSOM, PUTHOOR DESOM, PANTHEERANKAVU P.O., KOZHIKODE.

(*)2. PRAVEEN KUMAR, S/O.GOPALAN, RESIDING AT GURUVAYOORAPPAN COLLEGE P.O., KOZHIKODE. (DELETED)

3. SHAJI S/O.CHANDRAN, AGED 22 YEARS, RESIDING AT PADIKKAL PURATH HOUSE, OLAVANNA AMSOM DESOM, KOZHIKODE.

*NAME OF THE 2ND RESPONDENT IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE PETITIONER AS PER ORDER DATED 31.10.2007 IN IA NO.2538/2007.

R1 BY ADV. SRI.VINOD VALLIKAPPAN

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.F.A.No.1320 of 2001

Dated, this the 16th day of November, 2007

JUDGMENT

This appeal is filed by the insurer against an order passed under Section 140 of the Motor Vehicles Act awarding Rs.25,000/- as compensation to the first respondent/claimant. First respondent sustained a fracture of frontal bone with brain matter prolapsing. He produced a disability certificate which shows that he was having 17% permanent disability. The contention raised by the appellant is that the fracture of frontal bone with brain matter prolapsing will not come within the purview of Section 140 of the Act. When there is fracture of frontal bone definitely there must be permanent disfiguration of the head. It is not the percentage of disability alone matters. I do not find any reason to interfere with the award passed by the Tribunal.

2. Learned counsel appearing for the appellant submits that the Original Petition is still pending. I do not find any reason to interfere with the order under challenge. No merit in the appeal and the same is only to be dismissed.

In the result, appeal is dismissed.

C.M.P.No.8914/2001 will stand dismissed.

K. PADMANABHAN NAIR,
JUDGE.

K.PADMANABHAN NAIR, J.

M.F.A.No.1320 of 2001

JUDGMENT

16th November, 2007.